

Office of Legislative Counsel

OLC 77-1277/a

6 April 1977

OLC RECORD COPY

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*SSCI*

TO: Sam Hoskinson  
National Security Council  
Phone: 395-4682

FROM:   
Deputy Legislative Counsel  
Central Intelligence Agency  
Phone:

SSCI
77-0518/A

*Gundh*

Here are some comments on your  
outline on proposed White House statement.  
Otherwise, it looks good.



Distribution:

Orig - Add'l  
1 - OLC Subject  
1 - OLC Chrono

OLC  WPB/ndl (6 Apr 77)

## COMMENTS ON SAMUEL HOSKINSON'S PACKAGE

1. Both the schedule and the proposed White House statement seem to assume that there will be legislation and that such legislation will be a major overhaul. In short, it commits us to the legislative route before we know whether Congressional committees are going to be cooperative. The point in the statement that "Executive orders are not enough," forecloses an option.

2. I think the statement should be more positive in tone. There should be a discussion of the special need for good intelligence in the present world environment and how good legislation would improve the nation's intelligence capabilities.

3. The statement on the separation of powers should not be tied to the role of the Congress under B1 but rather should be placed under broad principles of legislation under B2. We have already seen some draft legislation from the SSCI and have seen how these drafts go too far in the area of restrictions on Executive prerogatives. Therefore, the President should make a statement confirming his authority in this area. In this connection, the points under B2 relating to "vague inherent authority" and "procedural as well as substantive restraint" should be toned down. This is because the President does in fact have "vague inherent authority" which should not be cut deeply into the procedural restraints.

OLC #77-1277

NATIONAL SECURITY COUNCIL

April 2, 1977

MEMORANDUM FOR: GEORGE CARY  
FROM: SAMUEL HOSKINSON

George,

Attached is the proposed schedule tabled at the Mondale meeting on Friday afternoon and a proposed public statement. I would very much appreciate any informal thoughts you might have on this whole business as soon as possible. Also, if you have any problems linking up appropriately with [redacted]

[redacted] on the game plan for the President's meeting with the Select Committee, please let me know. I think I might be able to help.

Attachment

*Sam*

SSCI

77-0518

*Gundh*

25X1

4/1/77

PROPOSED SCHEDULE RE INTELLIGENCE LEGISLATION\*

DATE/EVENT

DISCUSSION/ISSUE

4/-/77	Meeting about schedule and General Principles between White House and Congressional Leaders.	Who besides Senate Intelligence? (Senate Judiciary. House Committee (which one) Leadership).
4/-/77	Public statement concerning Schedule and General Principles of Legislation.	To be made after meeting with Congressional leaders. See attached draft outline, which also indicates reasons why such a statement would be desirable.
By 6/15/77	Completion of NSC Study and other Administration Analyses.	
6/15/77-9/30/77	Sharpening of Administration's positions and attempt to reach agreement on legislation with key Congressional Committees.	
9/30/77	Public Statement on Detailed Legislative Proposals (Introduction of Legislation.)	The aim would be to have this substantially agreed to and coordinated with key Congressional Committees.

\* If the "Foreign Intelligence" Wiretap Bill is to be separately introduced, a number of additional entries relating to it would be added.

Outline of Proposed White House Statement on  
Schedule and General Principles Re Intelligence Legislation --  
Together with Reasons for Issuing Statement

A. Reasons

1. Consistent with Administration Policy of letting people know direction of Government.
2. Counters charge Administration is dragging feet.
3. Lessens risk of being pushed by Congress into premature reactions. (Aim is to have them agree on statement and schedule.)
4. Ensures that debate within Administration is on making Intelligence legislation fair and workable and not on issue of whether there should be any such legislation.

B. Points to be Made in Statement

1. Need for Legislation

- Record of problems re Constitution/legality at home; reputation abroad; loss of efficiency and effectiveness.
- Executive Orders not enough.
- Praise role of Congress (but note certain limits to that role under separation of powers doctrine).

2. Broad Principles of Legislation

- What intelligence agencies can and cannot do both to be spelled out in legislation.
- No more vague and overbroad inherent authority.
- Procedural as well as substantive restraint (but sound a caution about excessive reorganization).
- Aim is to increase effectiveness as well as ensuring legality and propriety.

3. Proposed Schedule and Procedures

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